

**BRIAN D. SHAPIRO**

E-filed: July 15, 2010

Trustee in Bankruptcy  
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**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEVADA**

In Re:

HORACIO ROCHA and  
ELIZABETH D. ROCHA,

Debtor(s).

Chapter 7  
Case No. 10-12779-LBR

**TRUSTEE'S MOTION TO SELL NON-  
EXEMPT ASSETS SUBJECT TO ANY  
AND ALL LIENS AND ENCUMBRANCES**

Hearing Date: August 25, 2010  
Hearing Time: 11:00 a.m.

BRIAN D. SHAPIRO, TRUSTEE respectfully moves this Court for an Order allowing the Trustee to sell the Estate's interest in a Worldmark by Wyndham Timeshare #39004991 (the "Property") subject to any and all liens and encumbrances, without warranty and in an "as is" condition to Horacio and Elizabeth Rocha. This motion is based upon the following points and authorities, the pleadings and proceedings had herein, the Declaration of Brian D. Shapiro in Support and any oral argument this Court may permit.

/s/ Brian D. Shapiro  
BRIAN D. SHAPIRO, TRUSTEE

**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. Statement of Facts**

The following Facts are based upon the Declaration of Brian D. Shapiro, which is being filed contemporaneously with this motion.

1. On February 23, 2010 Debtors filed a voluntary petition for relief under Chapter 7 of the Bankruptcy Code in the United States Bankruptcy Court for the District of Nevada. Id.
2. Brian D. Shapiro was appointed as Chapter 7 Trustee in said case. Id.
3. On March 29, 2010 Debtors testified at their 341 Meeting of Creditors they own a Worldmark by Wyndham Timeshare #39004991. They further testified that the timeshare is owned free and clear of liens. Id.
4. The Property is valued at \$5,000.00 on the Debtors' Bankruptcy Schedules; however, the Trustee values the Property at \$2,500.00 based upon comparisons to other similar timeshares currently on the market. Id.
5. The Trustee entered into a purchase agreement with Horacio and Elizabeth Rocha to purchase the Estate's interest in the Property for \$2,500.00. The Trustee has since received such funds. Id. A copy of the purchase agreement is attached to the Declaration of Brian D. Shapiro as Exhibit 1.
6. The Trustee has examined the value of the Property and believes that the purchase price is approximately equal to its actual value. Id.
7. The Trustee also believes that it is in the best interest of the Estate to sell the Property to Horacio and Elizabeth Rocha. Id.

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1 **II. Legal Argument**

2 STATEMENT OF LAW:

3 This Motion is brought pursuant to 11 U.S.C. §363 which provides:

4 (b)(1) The trustee after notice and a hearing, may use, sell, or lease,  
5 other than in the ordinary course of business, property of the estate.

6 . . .

7 (f) The trustee may sell property under Section (b) or (c) of  
8 this Section free and clear of any interest in such property of an  
9 entity other than the estate, only if -

10 . . .

11 (3) Such interest is a lien and the price at which such property is to  
12 be sold is greater than the aggregate value of all liens on such  
13 property;

14 The Trustee believes that the proposed sale is in the best interest of the Estate, and that  
15 considering the circumstances, the Estate is receiving fair and reasonable value for the assets  
16 being sold.

17 **III. Conclusion**

18 The Trustee respectfully requests this Court to approve the sale of the Property, less  
19 costs of sale and commissions, authorizing the Trustee to sign any and all documents to  
20 consummate the sale.  
21

22 DATED this 15<sup>th</sup> day of July, 2010.

23  
24 /s/ Brian D. Shapiro  
25 BRIAN D. SHAPIRO, TRUSTEE  
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